

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**TRUSTEES OF THE SHEET METAL
WORKERS' INTERNATIONAL
ASSOCIATION LOCAL UNION
NO. 28 BENEFIT FUNDS,**

Plaintiff,

12 Civ. 7922 (ALC)(SN)

- against -

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

FLUSH METAL PARTITIONS, LLC,

Defendant.
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ANDREW L. CARTER, JR., United States District Judge:

On October 24, 2012, Plaintiff filed a Complaint against Defendant for injunctive relief and damages under the Employee Retirement Income Security Act ("ERISA"). This matter was referred to Magistrate Judge Sarah Netburn pursuant to a November 11, 2012 Order. On January 3, 2013, Judge Netburn noted that while Defendant had been served on November 5, 2012, Plaintiff had not taken any further action to prosecute this case. She further warned that if Plaintiff did not take steps to obtain default judgment by February 3, 2013, she would recommend that this case be dismissed.

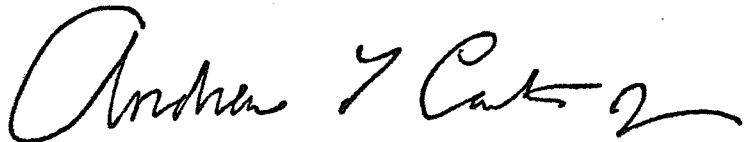
After careful consideration, Judge Netburn issued a Report and Recommendation ("R&R") on February 5, 2013, proposing this case be dismissed pursuant to Fed. R. Civ. P. 41 for failure to prosecute. Despite notification of the right to object to the R&R, no objections were filed. When no objection is made, the Court subjects the R&R to a clear error review. Arthur v. Goord, No. 06 Civ. 326 (DLC), 2008 WL 482866, at *3 (S.D.N.Y. Feb. 21, 2008) ("To accept those portions of the report to which no timely objection has been made, 'a district court

need only satisfy itself that there is no clear error on the face of the record.” (quoting Figueroa v. Riverbay Corp., No. 06 Civ. 5364 (PAC), 2006 WL 3804581, at *1 (S.D.N.Y. Dec. 22, 2006))). The Court’s review finds no clear error. Accordingly, the Court **ADOPTS** Judge Netburn’s R&R in its entirety and **DISMISSES** this case under Fed. R. Civ. P. 41 for failure to prosecute.

The Clerk of Court is respectfully directed to close this case from the Court’s active docket.

SO ORDERED.

Dated: New York, New York
March 3, 2014

A handwritten signature in black ink, reading "Andrew L. Carter, Jr.", with a stylized flourish at the end.

ANDREW L. CARTER, JR.
United States District Judge